
From: Olinger, Keith
Sent: Tuesday, March 31, 2015 3:26 PM
To: Michael A. Francis
Cc: Berninger, Stephen; James C Stull; dwood@wshblaw.com; Jennifer T. Taggart
Subject: RE: Releasability Review: Continental Heat (10643 Norwalk Blvd)

Thank you for the follow up Michael. Keith

Keith O
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From: Michael A. Francis [mailto:MFrancis@DDSFFIRM.com]
Sent: Tuesday, March 31, 2015 3:18 PM
To: Olinger, Keith
Cc: Berninger, Stephen; James C Stull; dwood@wshblaw.com; Jennifer T. Taggart
Subject: RE: Releasability Review: Continental Heat (10643 Norwalk Blvd)

Keith and Steve—

Since yesterdays' below e-mail exchange, CHT has learned that the attached report was previously provided to the RWQCB. Accordingly, CHT withdraws its assertion of confidentiality with respect to the attached document. Thanks.

Michael A. Francis
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From: Michael A. Francis
Sent: Monday, March 30, 2015 2:53 PM
To: 'Olinger, Keith'
Cc: 'tgarner@toeroek.com'; Berninger, Stephen; 'James C Stull'; dwood@wshblaw.com; Jennifer T. Taggart
Subject: RE: Releasability Review: Continental Heat (10643 Norwalk Blvd)

Keith—

This attached document must be kept confidential and it was provided to EPA with the understanding that it would be kept confidential by EPA. Continental Heat Treating, Inc. ("CHT") was provided this document pursuant to a third party confidentiality agreement which requires this document be maintained as confidential.

Below are the responses to the EPA's questions.

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently?---**Permanently.**

2. What measures have you taken to guard against the undesired disclosure of the information to others? Do you intend to continue to take such measures?---CHT has not disclosed this attached document to others except the EPA as a confidential disclosure. Yes, CHT intends to continue to take such measures.

3. Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?---This document has not been disclosed to anyone other than to EPA as a confidential disclosure.

4. Is the information reasonably obtainable without the Company's consent by other persons (e.g. the information is contained in any publicly available material such as the Internet, library, publicly available databases, promotional publications, annual reports, or articles?) Is there any means by which a member of the public could obtain access to the information?---CHT believes that a substantial portion of the information contained in the attached document is obtainable without CHT's consent. For example, the RWQCB has significant files regarding the investigations performed at the Jalk Fee and CHT sites. Such files contain most if not all of the data/information contained in the confidential document.

5. Has any Federal governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.---CHT is not aware of any such determination.

6. For each category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. --- CHT was provided this document pursuant to a third party confidentiality agreement which requires this document be maintained as confidential.

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If the business asserts that the information is voluntarily submitted information, whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.---CHT provided the attached confidential document in response to a mandatory requirement. This was a response to an EPA CERCLA 104(e) information request.

8. Any other issue you deem relevant.--- CHT was provided this document pursuant to a third party confidentiality agreement which requires this document be maintained as confidential. Further, at the time this file was provided to EPA, CHT believed that it was engaged in settlement discussions with EPA regarding the Omega Chemical Corporation Superfund Site. Accordingly, CHT also asserts that this document is protected by a settlement communication privilege.

Thank you for bringing this matter to my attention. FYI, I will be out of the country between April 2 and 19, 2015 and I will have very little, if any, internet access during this period.

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privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Olinger, Keith [<mailto:Olinger.Keith@epa.gov>]
Sent: Monday, March 30, 2015 2:14 PM
To: Michael A. Francis
Cc: 'tgarner@toeroek.com'; Berninger, Stephen
Subject: Releasability Review: Continental Heat (10643 Norwalk Blvd)

Michael -

I'm following up on a matter regarding the attached Phase II report regarding the CERCLA Section 104(e) response you sent to EPA. The report was part of Continental Development Company, L.P.'s 4/24/2014 104e response. I don't view this as being a privileged or confidential document and, except for redacting some privacy-related information (i.e., phone numbers and addresses), I am recommending that EPA label it a releasable document, available to the public.

Because we've received a request for information that encompasses your 4/24/14 response, **please let me know by Friday, April, 3 2015** if you do intend to assert a claim of confidentiality over the document. If I don't hear back from you, I will proceed as if you do not wish to make any such claim over the document.

If you are claiming this as confidential business information (CBI), we will need to ask you/your client to substantiate such claim, in accordance with 40 C.F.R. Part 2, Subpart B. In order to substantiate the claim, we would ask that you answer the following questions for each item or class of information that you identify as being subject to CBI, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently?

2. What measures have you taken to guard against the undesired disclosure of the information to others? Do you intend to continue to take such measures?

3. Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information reasonably obtainable without the Company's consent by other persons (e.g. the information is contained in any publicly available material such as the Internet, library, publicly available databases, promotional publications, annual reports, or articles?) Is there any means by which a member of the public could obtain access to the information?

5. Has any Federal governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects.

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If the business asserts that the information is voluntarily submitted information, whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

8. Any other issue you deem relevant.

Thanks for your attention to this matter.

Keith

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